



Policies and Procedures for Proper Use of Non-DoD Contracts

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DLA Policy on Proper Use of Non-DoD Contracts

- DLA Procurement Letter (“PROCLTR”) 05-01, issued 12 January 2005.
 - Implemented the Departmental “joint signature” memorandum by establishing a pre-award review process/procedure to ensure that use of non-DoD vehicles is in the best interest of the Department of Defense.
 - Further reflected the guidelines of the joint OSD-GSA initiative, “Get It Right!”
 - Addressed several additional statutory requirements, including Sections 801 and 803 of the FY 2002 NDAA.
- DLA “Dual Signature” Memorandum signed by the CAE and the Agency Comptroller March 25, 2005.
- Feature article on proper use disseminated to the entire Enterprise via Agency intranet homepage, “DLA Today and Tomorrow.”

Purposes of Coverage

- Ensure appropriate use of non-DOD contracts with regard to:
 - Scope of existing or proposed vehicle;
 - Fulfillment of the customer's needs;
 - Processes and procedures employed by DOD personnel;
 - Funds availability and control;
 - Documentation and reporting.
- Foster visibility and transparency of contract actions throughout the enterprise.
- Establish and maintain appropriate lines of contracting authority.
- Ensure that a DLA contracting official oversees the use of DLA funds via contract, even when GSA or another entity is placing the order on our behalf.

Processes & Procedures

- Processes/Procedures include:
 - Adequate and complete acquisition planning;
 - Consultation with Agency Contracting Officers and Financial Managers to determine whether:
 - The acquisition meets the customer's needs in terms of quality, delivery, price;
 - Requirements are within scope of the intended vehicle;
 - The acquisition strategy is cost-effective;
 - Funds are available and appropriate for the purpose.

Processes & Procedures (continued)

- Processes/Procedures include (continued):
 - Review and approval at appropriate levels of organization.
 - Integrated Acquisition Review Board (I-ARB) process for all *supply or service* acquisitions through a non-DOD vehicle.
 - Pertains to all actions above the SAT;
 - Review and approval required at least one level above the contracting officer (but recommended at the CCO level) for acquisitions up to \$5M; review/approval at higher organizational levels for various ranges of increased contract values.
 - Actual convening of the I-ARB, chaired by the Component Acquisition Executive, for all such actions valued over \$50M.

DLA, as the **Requiring Activity**, **Must:**

- Demonstrate a *bona fide need* for the requirement;
- Performance-base all orders/contracts for services >\$100,000;
- Give the appropriate number of potential sources (i.e., all sources for non-FSS MACs; “as many as practicable” to yield three offers for FSS) an opportunity to compete;
- Take small business considerations (including bundling) into account;
- Require contracting personnel to provide a signed certification of compliance with procedures;
- Require financial management personnel to ensure that:
 - the documentation contains this certification;
 - funds are available for the procurement action;
 - the supplies or services to be acquired are consistent with the appropriated funding to be utilized.

Questions and Issues in Implementation

- Issue: Joint contracts/combined requirements:
 - DSCP Medical has joint contracts, directed by Congress and sanctioned by the GAO, with the VA for certain medical equipment. The original solicitation included both agencies' required terms, etc., but the VA made the awards. In the future, requirements will be jointly solicited, but VA will award approximately half and DSCP the other half, with each entity authorized to order against the other's contracts. All contracts will continue to include applicable terms/conditions/requirements unique to DOD or DLA. Question: whether those with VA contract numbers/contracting officers are considered "non-DOD" within the meaning of this policy.
 - Determination: If some of these contracts have VA contract numbers, they are still considered non-DOD awards for purposes of this coverage, even though DOD terms and conditions have been taken into account.

Questions and Issues in Implementation (continued)

- Question: Why is financial management responsible for ensuring that the Contracting organization does what it is supposed to do? (Question pertains to DLAD policy.)
 - Answer: the requirement comes from the OSD joint signature memorandum, which stated that the “financial management community shall: (1) ensure the program manager or other appropriate individual has certified that the procedures established by the...Defense Agency have been followed... .”
 - Solution: Subsequent to publication of the PROCLTR, DLA’s version of the joint-signature memorandum was released by the Agency Component Acquisition Executive and the DLA Comptroller.
 - Addresses pre-award coordination between both organizations to ensure that whoever is placing an order against a non-DOD vehicle knows in advance that the money is not only available for the purchase, but that it comes out of the right pot.

Questions and Issues in Implementation (continued)

- Issue: Contracting authority/“maverick activity” (i.e., what requirements people need to know):
 - Activity A doesn't have contracting authority. Since it's co-located with Activity B, the latter does the contracting for both.
 - It turns out that Activity A has been making use of assisted acquisitions for several years for various types of support. Not being a contracting activity, they were unaware of the new policy on review/approval of non-DOD contracts. They learned that their use of assisted acquisitions without the involvement of contracting personnel was now impermissible; this occurred just days before GSA was to solicit two separate actions on their behalf. Each of these was for a greater dollar value than Activity B's contracting authority for IT purchases.

Questions and Issues in Implementation (continued)

- Issue: Contracting authority (continued):
 - Lesson learned:
 - The new policy has served, however unwittingly, as a means of flushing out problems with overall contracting control. We in contract policy need to ensure that requirements personnel and other acquisition professionals understand and comply with the notion of “contracting authority.”
 - Solutions:
 - A revision/update to the DLAD has been drafted to make clear that non-contracting activities must not expend funds for goods or services without the involvement (i.e., review, approval, oversight) of contracting professionals.
 - Future PMRs of organizational elements at the Activity B level will include review not only of their interaction with higher headquarters, but also of the sufficiency of their support of lower-level activities for which they have been assigned contracting responsibility.